

The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL BECKER, FRANK BAHREN,
and ANDREAS STIEGLER

Appeal 2007-1844
Application 10/012,200
Technology Center 2600

Decided: October 4, 2007

Before LANCE LEONARD BARRY, JEAN R. HOMERE, and ST JOHN COURTENAY, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 1 through 14. We have jurisdiction under 35 U.S.C. § 6(b) to decide this appeal. We reverse.

The Invention

Appellants invented a vehicle multimedia system having multiple transceivers for communicating over a communication medium. (Specification 1).

An understanding of the invention can be derived from exemplary independent claim 1, which reads as follows:

1. A multimedia unit for use in a vehicle multimedia system that includes a plurality of multimedia units connected to a ring-shaped bus, said multimedia unit comprising a plurality of transceiver units configured to communicate over the ring-shaped bus, wherein said multimedia unit includes a network controller that controls the communication of said plurality of transceiver units over the ring-shaped bus.

In rejecting the claims on appeal, the Examiner relies upon the following prior art:

Murakami US 6,414,941 B1 Jul. 02, 2002
Filed Apr. 20, 1999

The Examiner rejects the claims on appeal as follows:

Claims 1 through 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Murakami.

Appellants contend that Murakami does not render claims 1 through 14 unpatentable. Particularly, Appellants contend that Murakami does not teach or suggest a multimedia unit that comprises a plurality of transceiver units, as recited in independent claims 1, 11, and 13. (Br.6, Reply Br. 2). In response, the Examiner contends that Murakami's teaching of a network node which comprises a first transceiver unit in the form of a receiver/transmitter means, and the network node further comprising a

multimedia unit, which includes another transceiver unit renders the cited claims unpatentable. (Answer 3-5.)

ISSUE

The *pivotal* issue in the appeal before us is as follows:

Have Appellants shown¹ that the Examiner failed to establish that the disclosure of Murakami renders the claimed invention unpatentable under 35 U.S.C. § 103(a)? Particularly, does Murakami render the claimed invention unpatentable, given that Murakami teaches a node comprising a first transceiver and a multimedia unit having a second transceiver?

FINDINGS OF FACT

The following findings of fact are supported by a preponderance of the evidence.

¹ In the examination of a patent application, the Examiner bears the initial burden of showing a *prima facie* case of unpatentability. *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). When that burden is met, the burden then shifts to the applicant to rebut. *Id.*; see also *In re Harris*, 409 F.3d 1339, 1343-44, 74 USPQ2d 1951, 1954-55 (Fed. Cir. 2005) (finding rebuttal evidence unpersuasive). If the applicant produces rebuttal evidence of adequate weight, the *prima facie* case of unpatentability is dissipated. *Piasecki*, 745 F.2d at 1472, 223 USPQ at 788. Thereafter, patentability is determined in view of the entire record. *Id.* However, Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. See *In re Kahn*, 441 F.3d 977, 985-86, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1455 (Fed. Cir. 1998)).

The Invention

1. As depicted in Figure 1, Appellants invented a vehicle multimedia system (10) having a plurality of multimedia units (12-21) that communicate over a ring shaped network (24) via linkage sections (26-35). (Specification 3).
2. As depicted in Figure 2, at least one of the multimedia units includes a plurality of transceiver units (TC) and a network controller (40) for controlling the communication between the transceivers *Id.*

The Prior Art Relied Upon

3. As depicted in Figure 1, Marakami teaches a supervisory system having a plurality of nodes (N1-N4), each node having a controller (NC) and at least one multimedia unit that communicates another multimedia unit over a ring-shaped network (2) via linkage sections (3a-3d). (Col. 7, ll. 1-24).
4. Marakami indicates that the multimedia units include, for example, a cellular phone, a facsimile, or a digital TV, etc. (Col. 7, ll. 25-36).
5. As depicted in Figure 2, Brown teaches that each node includes a frame reception unit (11) and a frame transmission unit (29). (Col. 7, l. 66-col. 8, l. 14).

PRINCIPLES OF LAW

1. OBVIOUSNESS (Prima Facie)

The Supreme Court in *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), stated that the following factual inquiries underpin any determination of obviousness:

Under § 103, [1] the scope and content of the prior art are to be determined; [2] differences between the prior art and the claims at issue are to be ascertained; and [3] the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such (4) secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy.

Where the claimed subject matter involves more than the simple substitution one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement, a holding of obviousness must be based on “an apparent reason to combine the known elements in the fashion claimed.” *KSR Int’l v. Teleflex, Inc.*, 127 S. Ct. 1727, 1740-41, 82 USPQ2d 1385, 1396 (2007). That is, “there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, 127 S. Ct. at 1741, 82 USPQ2d at 1396 (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). Such reasoning can be based on interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge possessed by a

person having ordinary skill in the art. *KSR*, 127 S. Ct. at 1740-41, 82 USPQ2d at 1396.

ANALYSIS

35 U.S.C. § 103(a) REJECTION

Independent claims 1, 11, and 13 require a multimedia unit that comprises a plurality of receiver units. (Br. Claims Appendix). We find that Murakami's disclosure does not reasonably teach this limitation to render the cited claims unpatentable. Particularly, we find insufficient support in the record before us for the Examiner's conclusion of obviousness. As set forth in the Principles of Law section above, the Supreme Court has held that in analyzing the obviousness of combining elements, a court need not find specific teachings, but rather may consider "the background knowledge possessed by a person having ordinary skill in the art" and "the inferences and creative steps that a person of ordinary skill in the art would employ." See *KSR* at 127 S. Ct. at 1740-41, 82 USPQ2d at 1396. To be nonobvious, an improvement must be "more than the predictable use of prior art elements according to their established functions." *Id.* However, the basis for an obviousness rejection cannot be merely conclusory statements; there must be some "articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*

As detailed in the Findings of Fact section above, we have found that Murakami teaches a node having a receiver/transmitter pair and at least a multimedia unit. (Findings 3-5.) We agree with the Examiner that one of ordinary skill would have readily recognized that the disclosed receiver/transmitter pair is equivalent to a first transceiver unit. Similarly, the ordinarily skilled artisan would have recognized that each of the

Appeal 2007-1844
Application 10/012,200

disclosed multimedia units, such as the facsimile or the cellular phone, includes a transceiver unit as well. Therefore, the ordinarily skilled artisan would have readily recognized that Murakami's nodes comprise at least two transceivers and a multimedia unit. We disagree with the Examiner's finding, however, that Murakami's teaching of a plurality of transceivers could be extended to the multimedia unit. We fail to find a sufficient rationale in the record before us, absent Appellants' own disclosure, that would have led the ordinarily skilled artisan to modify the multimedia units to include two transceivers in lieu of one.

It follows that the Examiner erred in rejecting independent claims 1, 11, and 13 as being unpatentable over Murakami. We find for these same reasons that dependent claims 2 through 10, 12, and 14 are not unpatentable over Murakami.

CONCLUSION OF LAW

On the record before us, the Examiner has failed to establish that Murakami's disclosure renders claims 1 through 14 unpatentable under 35 U.S.C. § 103(a).

DECISION

We have reversed the Examiner's decision rejecting claims 1 through 14.

Appeal 2007-1844
Application 10/012,200

REVERSED

eld

O'SHEA, GETZ & KOSAKOWSKI, P.C.
1500 MAIN ST.
SUITE 912
SPRINGFIELD MA 01115